



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Confirmation No.: 6655

HAGIWARA et al.

Group Art Unit: 2128

Application No.: 09/925,743

Examiner: A. Saxena

Filed: August 10, 2001

Docket No.: 107101-00034

For: SIMULATOR FOR AUTOMATIC VEHICLE TRANSMISSION CONTROLLERS

PETITION TO VACATE A FINAL REJECTION UNDER 37 C.F.R. § 1.181

MAIL STOP PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

June 8, 2006

Sir:

Petition is herewith made, under 37 C.F.R. 1.181, to remove the finality of the Office Action mailed April 12, 2006.

In the non-final Office Action issued for the instant application on July 19, 2005, claim 5 was objected to for a grammatical error and claims 1-13, 15-30 and 32-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over "Object-Oriented Modeling for Gasoline Engine and Automatic Transmission Systems," by K. Hong, et al., 1998 (hereinafter, "Hong") in view of Iizuka (U.S. Patent No. 5,885,188, hereinafter "Iizuka").

In the Amendment filed October 17, 2005, in Response to the July 19, 2005, Office Action, claim 5 was amended to correct the grammatical error. Specifically, claim 5 was amended to recite, in part, "include at least one" instead of - - include at one - -. No other amendments were made.


A final Office Action was issued in the instant application on January 10, 2006. The final Office Action contained numerous errors; thus, the Applicant's representative initiated a telephone interview with Supervisory Primary Examiner Kaman Shah on February 6,

2006. It was agreed that the Final Office Action would be withdrawn and a new, non-final Office Action would be issued. On March 12, 2006, the outstanding final Office Action was issued. The Office Action was made final, despite the Examiner's statement on page 2, paragraph 2, that the finality of the Office Action mailed January 10, 2006, had been rescinded in view of arguments presented to SPE Shaw by the Applicant.

In the outstanding Office Action, the Examiner cited a new reference, viz "Design of Computer Experiments for Open-Loop Control and Robustness Analysis of Clutch to Clutch Shifts in Automatic Transmission" by Albert Yoon et al. (hereinafter, "Yoon"). With the exception of the grammatical amendment to claim 5 noted above, the Applicants did not amend the claims in response to the Office Action dated July 19, 2005. Therefore, the "Applicant's amendment" could not, and did not, "necessitate the new ground(s) of rejection," as asserted by the Examiner in the outstanding Office Action. See, Office Action of March 12, 2006, page 31, paragraph 12. Accordingly, the Applicant submits that the finality of the outstanding Office Action is premature, and withdrawal of the finality is respectfully requested.

The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300, referencing our Docket No. 107101-00034.

Respectfully submitted,


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